House of Representatives

General Assembly

File No. 533

February Session, 2014

Substitute House Bill No. 5542

House of Representatives, April 14, 2014

The Committee on Public Health reported through REP. JOHNSON of the 49th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT EMERGENCY MEDICAL SERVICES PRIMARY SERVICE AREA TASK FORCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-181b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Not later than July 1, 2002, each municipality shall establish a local emergency medical services plan. Such plan shall include the written agreements or contracts developed between the municipality, its emergency medical services providers and the public safety answering point, as defined in section 28-25, that covers the municipality. The plan shall also include, but not be limited to, the following:

(1) The identification of levels of emergency medical services, including, but not limited to: (A) The public safety answering point responsible for receiving emergency calls and notifying and assigning

the appropriate provider to a call for emergency medical services; (B) the emergency medical services provider that is notified for initial response; (C) basic ambulance service; (D) advanced life support level; and (E) mutual aid call arrangements;

(2) The name of the person or entity responsible for carrying out each level of emergency medical services that the plan identifies;

(3) The establishment of performance standards for each segment of the municipality's emergency medical services system; and

(4) Any subcontracts, written agreements or mutual aid call agreements that emergency medical services providers may have with other entities to provide services identified in the plan.

(b) In developing the plan required by subsection (a) of this section, each municipality: (1) May consult with and obtain the assistance of its regional emergency medical services council established pursuant to section 19a-183, its regional emergency medical services coordinator appointed pursuant to section 19a-186a, its regional emergency medical services medical advisory committees and any sponsor hospital, as defined in regulations adopted pursuant to section 19a-179, located in the area identified in the plan; and (2) shall submit the plan to its regional emergency medical services council for the council's review and comment.

(c) Each municipality shall update the plan required by subsection (a) of this section as the municipality determines is necessary. The municipality shall consult with the municipality's primary service area responder concerning any updates to the plan. The Department of Public Health shall, upon request, assist each municipality in the process of updating the plan by providing technical assistance and helping to resolve any disagreements concerning the provisions of the plan.

(d) Not less than once every five years, said department shall review a municipality's plan and the primary service area responder's

provision of services under the plan. Such review shall include an evaluation of such responder's compliance with applicable laws and regulations. Upon the conclusion of such evaluation, the department shall assign a rating of "meets performance standards", "exceeds performance standards" or "fails to comply with performance standards" for the primary service area responder. The Commissioner of Public Health may require any primary service area responder that is assigned a rating of "fails to comply with performance standards" to meet the requirements of a performance improvement plan developed by the department. Such primary service area responder may be subject to subsequent performance reviews or removal as the municipality's primary service area responder for a failure to improve performance in accordance with section 19a-181c, as amended by this act.

Sec. 2. Section 19a-181c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) As used in this section **[**, "responder"**]** and section 5 of this act:

(1) "Responder" means any primary service area responder that **[**(1)**]** (A) is notified for initial response, **[**(2)**]** (B) is responsible for the provision of basic life support service, or **[**(3)**]** (C) is responsible for the provision of service above basic life support that is intensive and complex prehospital care consistent with acceptable emergency medical practices under the control of physician and hospital protocols; **[**.**]**

(2) "Emergency" means (A) the responder has failed to respond to fifty per cent or more first call responses in any rolling three-month period and has failed to comply with the requirements of any corrective action plan agreement between the municipality and the responder, or (B) the sponsor hospital refuses to endorse or provide a recommendation for the responder due to unresolved issues relating to the quality of patient care provided by the responder; and

(3) "Unsatisfactory performance" means the responder has failed to

(A) respond to eighty per cent or more first call responses, excluding those responses excused by the municipality in any rolling twelve-month review period, (B) meet defined response time standards agreed to between the municipality and responder, excluding those responses excused by the municipality, and comply with the requirements of a mutually agreed-upon corrective action plan, (C) investigate and adequately respond to complaints related to the quality of emergency care or response times, on a repeated basis, (D) report adverse events as required by the Commissioner of Public Health or as required under the local emergency medical services plan, on a repeated basis, (E) communicate changes to the level of service or coverage patterns that materially affect the delivery of service as required under the local emergency medical services plan or communicate an intent to change such service that is inconsistent with such plan, or (F) communicate changes in its organizational structure that are likely to negatively affect the responder's delivery of service.

(b) Any municipality may petition the commissioner for the removal of a responder. A petition may be made (1) at any time if based on an allegation that an emergency exists and that the safety, health and welfare of the citizens of the affected primary service area are jeopardized by the responder's performance, or (2) not more often than once every three years, if based on the unsatisfactory performance of the responder. **[**as determined based on the local emergency medical services plan established by the municipality pursuant to section 19a-181b and associated agreements or contracts.**]** A hearing on a petition under this section shall be deemed to be a contested case and held in accordance with the provisions of chapter 54.

(c) If, after a hearing authorized by this section, the commissioner determines that (1) an emergency exists and the safety, health and welfare of the citizens of the affected primary service area are jeopardized by the responder's performance, (2) the **[**performance of the responder is unsatisfactory based on the local emergency medical services plan established by the municipality pursuant to section 19-181b and associated agreements or contracts**]** responder has

demonstrated unsatisfactory performance, or (3) it is in the best interests of patient care, the commissioner may revoke the primary service area responder's primary service area assignment and require the chief administrative official of the municipality in which the primary service area is located to submit a plan acceptable to the commissioner for the alternative provision of primary service area responder responsibilities, or may issue an order for the alternative provision of emergency medical services, or both.

(d) The commissioner, or the commissioner's designee, shall act on any petition for the removal of a responder (1) not later than five business days after receipt of a petition where an emergency is alleged and shall conclude the investigation on such petition not later than thirty days after receipt of such petition, or (2) not later than fifteen business days after receipt of a petition where unsatisfactory performance is alleged and shall conclude the investigation on such petition not later than ninety days after receipt of such petition. The commissioner may redesignate any petition received pursuant to this section as due to an emergency or unsatisfactory performance based on the facts alleged in the petition and may comply with the time requirements in this subsection that correspond to the redesignated classification.

(e) The commissioner may develop and implement procedures to designate a temporary responder for a municipality when such municipality has alleged an emergency in the petition during the time such petition is under the commissioner's consideration.

(f) The commissioner may hold a hearing and revoke a responder's primary service area assignment in accordance with the provisions of this section, although a petition has not been filed, where the commissioner has assigned a responder a rating of "fails to comply with performance standards" in accordance with section 19a-181b, as amended by this act, and the responder subsequently failed to improve its performance.

Sec. 3. Section 19a-181d of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Any municipality may petition the **[**commissioner**]** Commissioner of Public Health to hold a hearing if the municipality cannot reach a written agreement with its primary service area responder concerning performance standards or the primary service area responder fails to deliver services in accordance with the municipality's local emergency medical services plan, as described in section 19a-181b, as amended by this act. The commissioner shall conduct such hearing not later than ninety days from the date the commissioner receives the municipality's petition. A hearing on a petition under this section shall not be deemed to be a contested case for purposes of chapter 54.

(b) In conducting a hearing authorized by this section, the commissioner shall determine if the performance standards adopted in the municipality's local emergency medical services plan are reasonable based on the state-wide plan for the coordinated delivery of emergency medical services adopted pursuant to subdivision (1) of section 19a-177, model local emergency medical services plans and the standards, contracts and written agreements in use by municipalities of similar population and characteristics.

(c) If, after a hearing authorized by this section, the commissioner determines that the performance standards adopted in the municipality's local emergency medical services plan are reasonable, the primary service area responder shall have thirty calendar days in which to agree to such performance standards. If the primary service area responder fails or refuses to agree to such performance standards, the commissioner may revoke the primary service area responder's primary service area assignment and require the chief administrative official of the municipality in which the primary service area is located to submit a plan acceptable to the commissioner for the alternative provision of primary service area responder responsibilities, or may issue an order for the alternative provision of emergency medical services, or both.

(d) If, after a hearing authorized by this section, the commissioner determines that the performance standards adopted in the municipality's local emergency medical services plan are unreasonable, the commissioner shall provide performance standards considered reasonable based on the state-wide plan for the coordinated delivery of emergency medical services adopted pursuant to subdivision (1) of section 19a-177, model emergency medical services plans and the standards, contracts and written agreements in use by municipalities of similar population and characteristics. If the municipality refuses to agree to such performance standards, the primary service area responder shall meet the minimum performance standards provided in regulations adopted pursuant to section 19a-179.

Sec. 4. (NEW) (*Effective October 1, 2014*) A primary service area responder, as defined in section 19a-175 of the general statutes, shall notify the Department of Public Health not later than sixty days prior to the sale or transfer of more than fifty per cent of its ownership interest or assets. Any person who intends to obtain ownership or control of a primary service area responder in a sale or transfer for which notification is required under this section shall submit an application for approval of such purchase or change in control on a form prescribed by the Commissioner of Public Health. The commissioner shall, in determining whether to grant approval of the sale or transfer, consider: (1) The applicant's performance history in the state or another state; and (2) the applicant's financial ability to perform the responsibilities of the primary service area responder in accordance with the local emergency medical services plan, established in accordance with section 19a-181b of the general statutes, as amended by this act. The commissioner shall approve or reject the application not later than forty-five calendar days after receipt of the application. The commissioner may hold a hearing on such application and may consult with any municipality or sponsor hospital in the primary service area, as such terms are defined in section 19a-175 of the general statutes, in making a determination on the application.

Sec. 5. (NEW) (*Effective October 1, 2014*) (a) For purposes of this

section, "primary service area responder" has the same meaning as in section 19a-175 of the general statutes. Any municipality may submit an alternative local emergency medical services plan prepared pursuant to section 19a-181b of the general statutes, as amended by this act, to the Department of Public Health that may include one or more alternative primary service area responders. Such plan may be submitted when: (1) The municipality's current primary service area responder has failed to meet the standards outlined in the local emergency medical services plan, established pursuant to section 19a-181b of the general statutes, as amended by this act; (2) the municipality has established an emergency or unsatisfactory performance, as defined in section 19a-181c of the general statutes, as amended by this act; (3) the primary service area responder does not meet a performance measure provided in regulations adopted pursuant to section 19a-179 of the general statutes; (4) the municipality has developed a plan for regionalizing service; (5) the municipality has developed a plan that will improve patient care; or (6) the municipality has the opportunity to align a new primary service area responder that is better suited than the current primary service area responder to meet the community's current needs.

(b) The Commissioner of Public Health shall conduct a hearing on any alternative local emergency medical services plan submitted pursuant to subsection (a) of this section. In order to determine whether to approve or disapprove such plan, the commissioner shall consider any relevant factors, including, but not limited to: (1) The impact of the plan on patient care; (2) the impact of the plan on emergency medical services system design, including system sustainability; (3) the impact of the plan on the local, regional and state-wide emergency medical services system; and (4) the recommendation from the medical oversight sponsor hospital. If the commissioner approves the plan, the commissioner shall reassign the primary service area in accordance with such plan. The primary service area responder named in such plan must apply for, and the commissioner must approve, primary service area assignment before such assignment becomes effective.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2014*	19a-181b
Sec. 2	*October 1, 2014*	19a-181c
Sec. 3	*October 1, 2014*	19a-181d
Sec. 4	*October 1, 2014*	New section
Sec. 5	*October 1, 2014*	New section

Statement of Legislative Commissioners:

In section 2(a), the phrase "and section 5 of this act:" was inserted after "**[**, "responder"**]**", for accuracy and clarity; in section 2(a)(2)(A), the phrase "the primary service area responder" was changed to "the responder", for internal consistency; in the introductory language of section 2(a)(3), the phrase "a responder failed" was changed to "the responder has failed", for internal consistency; in section 2(a)(3)(B), the phrase "the responder failed to" was deleted, for clarity and internal consistency; in section 2(d)(2), the phrase "shall issue a determination" was changed to "shall conclude the investigation", for internal consistency; in section 2(f), the phrase "primary area assignment" was changed to "primary service area assignment", for internal consistency; in section 4, the phrase ", as such terms are defined in section 19a-175 of the general statutes" was inserted after "sponsor hospital in the primary service area"; and in section 5(b), the phrase "The responder" was changed to "The primary service area responder", for internal consistency.

PH *Joint Favorable Subst.*

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 $	FY 16 $
Comptroller- Fringe Benefits[1]	GF - Cost	51,023	69,314
Public Health, Dept.	GF - Cost	144,178	194,073

Municipal Impact: None

Explanation

The bill results in a cost to the Department of Public Health (DPH) of $144,178 in FY 15 and $194,073 in FY 16 and a cost to State Comptroller – Fringe Benefits of $51,023 in FY 15 and $69,314 in FY 16. The bill requires DPH to review a municipality's emergency medical services (EMS) plan and the primary service area responder's (PSAR) provision of services under the plan not less than once every five years, assign a rating to these plans and act on petitions for removal of a responder, which may include implementing procedures to designate a temporary responder and holding hearings.

The cost to DPH in FY 15 for staff reflects a 10/1/14 start date. The salary and other expenses for two full-time Health Program Assistants (HPAs) and a half-time Special Investigator and half-time Staff Attorney are $144,178 in FY 15 and $194,073 in FY 16. The associated cost to State Comptroller – Fringe Benefits for these positions is $51,023 in FY 15 and $69,314 in FY 16. HPAs are included in order to provide approximately 17 municipalities each (34 annually for a five-year total

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

of just over 169[2]) with technical assistance and disagreement resolution for these plans, which are extensive and complex. The half-time Special Investigator and half-time Staff Attorney are included to act on petitions for removal of a responder, which may include implementing procedures to designate a temporary responder and holding hearings.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[2]There are 169 municipalities in Connecticut.

OLR Bill Analysis

sHB 5542

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT EMERGENCY MEDICAL SERVICES PRIMARY SERVICE AREA TASK FORCE.

SUMMARY:

This bill makes several changes concerning emergency medical services (EMS) and primary service area responders (PSARs).

It requires municipalities to update their local EMS plans as they determine necessary, and consult with their PSAR when doing so. It requires the Department of Public Health (DPH), at least every five years, to review local EMS plans and PSARs' provision of services under them and then rate the responders' performance. A "failing" rating has various consequences, including possible removal as PSAR if the responder fails to improve.

The bill makes changes to the process for municipalities to petition for removal of a PSAR. Among other things, it (1) defines what constitutes an "emergency" or "unsatisfactory performance" for this purpose and (2) sets deadlines for the commissioner to act on these petitions.

The bill provides a new avenue for municipalities to request a change to their PSARs. It does so by allowing them, for specified reasons, to submit to DPH alternative local EMS plans. If the commissioner approves the alternative plan after a hearing, she must reassign the primary service area (PSA) to another responder.

The bill also requires a PSAR to give prior notice to DPH before selling its ownership interest or assets, and requires the buyer to obtain DPH's approval.

By law, a "primary service area" is a specific geographic area to which DPH assigns a designated EMS provider for each category of emergency medical response services. These providers are termed "primary service area responders" (CGS § 19a-175).

EFFECTIVE DATE: October 1, 2014

§§ 1 & 2 — LOCAL EMS PLAN UPDATES AND DPH REVIEW

By law, each municipality had to establish a local EMS plan by July 1, 2002 (see BACKGROUND). The bill requires each municipality to update its plan as it determines necessary. In updating its plan, a municipality must consult with its PSAR. Upon request, DPH must assist municipalities with the updating process by (1) providing technical assistance and (2) helping to resolve disagreements (presumably between the municipality and PSAR) concerning the plan.

The bill also requires DPH, at least every five years, to review local EMS plans and PSARs' provision of services under them. In conducting the review, DPH must evaluate how the PSAR has complied with applicable laws and regulations and rate the service as "meeting performance standards," "exceeding performance standards," or "failing to comply with performance standards."

If DPH rates a PSAR as failing, the commissioner may require it to comply with a department-developed performance improvement plan. PSARs rated as failing may also be subject to (1) later performance reviews or (2) removal as the town's PSAR for failing to improve their performance.

The commissioner may initiate a hearing on her own and remove the PSAR if she rated it as failing to comply with performance standards and the responder subsequently fails to improve its performance. The town may also petition for removal, as explained below.

§§ 2 & 3 — REMOVAL OF PSAR

§ 2 — Petitions Based on Emergency or Unsatisfactory Performance

By law, a municipality can petition the DPH commissioner to remove a PSAR not meeting certain standards. This applies to PSARs notified for initial response as well as those responsible for basic life support or services above basic life support. A municipality can file a petition (1) at any time based on an allegation that an emergency exists and the safety, health, and welfare of the PSA's citizens are jeopardized by the responder's performance or (2) not more than once every three years on the basis of the responder's unsatisfactory performance. The commissioner can revoke a PSAR assignment, after a contested case hearing, if she determines that (1) either of these standards are met or (2) it is in the best interests of patient care to do so.

For this purpose, current law (1) does not define "emergency" and (2) specifies that "unsatisfactory performance" is determined under the local EMS plan and associated agreements or contracts. The bill instead defines both terms. Under the bill, an "emergency" means:

1. the PSAR failed to (a) respond to 50% or more first-call responses in any rolling three-month period and (b) comply with any corrective action plan agreement between the PSAR and municipality or

2. the sponsor hospital refuses to endorse or recommend the responder due to unresolved issues relating to the PSAR's quality of patient care. (By law, a sponsor hospital provides medical oversight, supervision, and direction to an EMS organization and its personnel.)

Under the bill, "unsatisfactory performance" means a PSAR:

1. failed to respond to 80% or more first-call responses, excluding those the municipality excused in any rolling 12-month review period;

2. failed to meet defined response time standards agreed to between the municipality and responder, excluding responses the municipality excused, and the responder failed to comply with a mutually agreed-upon corrective action plan;

3. repeatedly failed to investigate and adequately respond to complaints about quality of emergency care or response times;

4. repeatedly failed to report adverse events as required by the commissioner or under the local EMS plan;

5. failed to communicate (a) changes to service level or coverage patterns that materially affect service delivery as required under the local EMS plan or (b) an intent to change service in a manner inconsistent with the plan; or

6. failed to communicate changes in its organizational structure likely to negatively affect its service delivery.

The bill requires the commissioner or her designee to act on such a petition (1) within five business days after receipt, for petitions alleging an emergency and (2) within 15 business days after receipt, for those alleging unsatisfactory performance. (Presumably, this means the commissioner must begin her investigation within these timeframes.) She must conclude her investigation within (1) 30 days after receipt for petitions alleging an emergency or (2) 90 days after receipt for those alleging unsatisfactory performance.

The bill allows the commissioner, based on the facts alleged in a petition, to reclassify an emergency petition as an unsatisfactory performance petition and vice versa. If she does so, she may comply with the timeframes corresponding with her reclassification.

The bill authorizes the commissioner to develop and implement procedures for designating temporary responders while an emergency petition is under her review.

§ 3 — Enforcement Hearing

The bill also allows a municipality to petition the commissioner to hold a hearing if the PSAR failed to deliver services in accordance with the local EMS plan.

By law, the hearing's purpose is to determine if the performance standards in the local EMS plan are reasonable, based on certain comparative documents. Under the bill, this hearing has the same purpose and procedures as those under existing law if the town and PSAR cannot reach a written agreement on performance standards (see BACKGROUND).

§ 5 — ALTERNATIVE LOCAL EMS PLAN

The bill allows municipalities to submit to DPH alternative local EMS plans, which may include one or more alternative PSARs. A municipality can do so when:

1. its current PSAR has failed to meet the standards outlined in the local EMS plan;
2. the municipality has established an emergency or unsatisfactory performance, as defined under the bill;
3. the PSAR does not meet a performance measure set forth in regulations;
4. the municipality has developed a plan to regionalize service;
5. the municipality has developed a plan that will improve patient care; or
6. the municipality has the opportunity to align to a new PSAR that is better suited than the current one to meet the community's current needs.

If the commissioner receives such an alternative plan, she must hold a hearing. (The bill does not specify a deadline for her to hold a hearing or make a decision after the hearing.)

In deciding whether to approve the plan, the commissioner must consider any relevant factors, including:

1. the plan's impact on (a) patient care, (b) EMS system design, including system sustainability, and (c) the local, regional, and statewide EMS system and

2. the medical oversight sponsor hospital's recommendation.

If the commissioner approves the plan, she must reassign the PSA according to the plan. Before the new PSAR assignment takes effect, the responder named in the plan must apply for and receive the commissioner's approval.

§ 4 — SALE OR TRANSFER OF PSAR

Under the bill, a PSAR must give DPH at least 60 days' notice before selling or transferring more than half of its ownership interest or assets. The intended buyer or transferee must apply to DPH for approval, on a form the commissioner prescribes.

In deciding whether to approve the transaction, the commissioner must consider the applicant's (1) performance history in Connecticut or other states and (2) financial ability to perform PSAR responsibilities under the local EMS plan.

The bill gives the commissioner 45 days to approve or reject the application. It allows her to hold a hearing on the application. She also may consult with any municipality or sponsor hospital in the PSA in making her determination.

BACKGROUND

Local EMS Plans

By law, a municipality's local EMS plan must include written agreements or contracts between the town, its EMS providers, and the public safety answering point covering the municipality. The plan must also include:

1. identification of specified levels of EMS;

2. the person or entity responsible for each EMS level identified in the plan;

3. performance standards for each part of the town's EMS system; and

4. any subcontracts, written agreements, or mutual aid call agreements that EMS providers have with other entities to provide services identified in the plan.

Petition Regarding Failing to Reach Agreement on Performance Standards

By law, a municipality can petition the DPH commissioner to hold a hearing if the town and PSAR cannot reach a written agreement on performance standards. If so, the commissioner must hold a hearing, which is not considered a contested case for purposes of the Uniform Administrative Procedure Act.

After the hearing, if the commissioner determines that the performance standards in the local EMS plan are reasonable, the responder has 30 days to agree to them. If the responder fails or refuses to do so, the commissioner can (1) revoke the responder's PSA assignment and require the town to submit an acceptable plan for alternative PSAR responsibilities, (2) issue an order for alternative EMS provision, or (3) do both.

If the commissioner determines that the adopted standards are unreasonable, she must provide reasonable performance standards based on the statewide plan for coordinated EMS delivery, model EMS plans, and the standards and agreements used by similar towns. If the town refuses to agree to such standards, the responder must meet the minimum performance standards in state regulations.

Related Bill

sHB 5580, reported favorably by the Planning and Development Committee, has similar provisions as this bill regarding EMS and PSARs.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 21 Nay 4 (03/27/2014)